



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 221129-0252]

RIN 0648-BL35

Pacific Island Fisheries; 2022-2025 Annual Catch Limits and Accountability Measures for Main Hawaiian Islands Deepwater Shrimp and Precious Coral Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement annual catch limits (ACL) and accountability measures (AM) for main Hawaiian Islands (MHI) deepwater shrimp and precious coral for each fishing year in the time period between 2022 and 2025. As a post-season AM, if NMFS determines that the most recent three-year average total catch exceeded an ACL in a fishing year, we would reduce the ACL for the following fishing year by the amount of the overage. This proposed rule supports the long-term sustainability of MHI deepwater shrimp and precious coral.

DATES: NMFS must receive comments by [*insert date 30 days after date of publication in the **FEDERAL REGISTER***].

ADDRESSES: You may submit comments on the proposed rule, identified by NOAA-NMFS-2022-0113, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0113 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Send written comments to Sarah Malloy, Acting Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

The Western Pacific Fishery Management Council
(Council) and NMFS prepared an environmental assessment

(EA) that supports this proposed rule. The EA is available at *www.regulations.gov*, or from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, or *www.wpcouncil.org*.

FOR FURTHER INFORMATION CONTACT: Keith Kamikawa, NMFS PIRO Sustainable Fisheries, 808-725-5177.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage fisheries in the U.S. Exclusive Economic Zone (EEZ, or Federal waters) around Hawaii under the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP), as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), with regulations at 50 CFR part 665. The FEP contains a process for the Council and NMFS to specify ACLs and AMs, codified at 50 CFR 665.4. NMFS must specify ACLs and AMs for each stock and stock complex of management unit species (MUS) in an FEP, as recommended by the Council and considering the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action, which may include an AM reducing the ACL for the subsequent fishing year by the amount of the overage, or other appropriate action.

This proposed rule would establish the following ACLs for MHI deepwater shrimp and precious coral for each fishing year in the time period between 2022 and 2025 and they are consistent with past ACLs for these fisheries:

Table 1. Annual Catch Limits for Main Hawaiian Islands
 Deepwater Shrimp and Precious Corals for each fishing year
 in the time period between 2022 and 2025

Fishery	Stock	ACL (lb)
Crustacean	Deepwater shrimp	250,773
Precious Coral	Auau Channel - Black coral	5,512
Precious Coral	Makapuu Bed - Pink and red coral	2,205
Precious Coral	Makapuu Bed - Bamboo coral	551
Precious Coral	180 Fathom Bank - Pink and red coral	489
Precious Coral	180 Fathom Bank - Bamboo coral	123
Precious Coral	Brooks Bank - Pink and red coral	979
Precious Coral	Brooks Bank - Bamboo coral	245
Precious Coral	Kaena Point Bed - Pink and red coral	148
Precious Coral	Kaena Point Bed - Bamboo coral	37
Precious Coral	Keahole Bed - Pink and red coral	148
Precious Coral	Keahole Bed - Bamboo coral	37
Precious Coral	Hawaii Exploratory Area - precious coral	2,205

This proposed rule is consistent with recommendations made by the Council at its March 2022 meeting. The Council recommended that NMFS implement ACLs and AMs for all subject stocks for each fishing year in the time period between 2022 and 2025. The fishing year is the calendar year for deepwater shrimp and July 1 through June 30 for precious coral.

As a post-season AM for each stock, NMFS and the Council will evaluate the catch after each fishing year relative to the ACL. If NMFS and Council determine the average catch of the three most recent years exceeds an ACL, NMFS will reduce the ACL for the subsequent fishing year through a separate rulemaking. These proposed 2022-2025 ACLs are unchanged from past deepwater shrimp and precious coral ACLs. The subject fisheries have not caught

their specified ACLs in any year since the ACLs were first implemented in 2012. There are currently two active Federal permits for the deepwater shrimp fishery and none for precious coral.

NMFS will consider public comments on this proposed rule and will announce the final rule in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES** section above. Regardless of the final rule, all other management measures will continue to apply in the fisheries.

Classification

Pursuant to section 304(b) (1) (A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Regulatory Flexibility Act (RFA) Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, issued under the authority of the Magnuson-Stevens Act, would not have a significant economic impact on a substantial number of small entities. This proposed rule

would specify ACLs and AMs for Hawaii deepwater shrimp for 2022, 2023, 2024, and 2025 and for Hawaii precious corals for 2022-2023, 2023-2024, and 2024-2025. The proposed ACLs for each fishing year in the time period between 2022 and 2025 would be as follows:

- Hawaii deepwater shrimp: 250,773 lb;
- Auau Channel black coral: 5,512 lb;
- Makapuu Bed Established Bed pink coral: 2,205 lb;
- Makapuu Bed Established Bed bamboo coral: 551 lb;
- 180 Fathom Bank Conditional Bed pink coral: 489 lb;
- 180 Fathom Bank Conditional Bed bamboo coral: 123 lb;
- Brooks Bank Conditional Bed pink coral: 979 lb;
- Brooks Bank Conditional Bed bamboo coral: 245 lb;
- Kaena Point Conditional Bed pink coral: 148 lb;
- Kaena Point Conditional Bed bamboo coral: 37 lb;
- Keahole Conditional Bed pink coral: 148 lb;
- Keahole Conditional Bed bamboo coral: 37 lb;
- Hawaii Exploratory Area pink coral: 2,205 lb;
- Hawaii Exploratory Area bamboo coral: 2,205 lb.

Catch of Hawaii deepwater shrimp and precious corals in state and Federal waters would all count toward the ACLs under this action. This would include catch by anyone who is required to report catch to state or Federal agencies. In recent years, a range of three to ten fishermen participated in the Hawaii deepwater shrimp fishery, while

no more than one or two fishermen participated in the precious corals fishery. This action would likely apply to 12 or fewer fishermen across Hawaii.

With respect to deepwater shrimp, based on the recent average annual landings of 8,819 lb from 2019 through 2021 and using the average price over the 2018-2021 time-frame of \$8.63, the annual commercial value of the fishery is approximately \$76,108. With an estimated 3 to 10 vessels having fished for deepwater shrimp in recent years, NMFS estimates that the average revenue for each vessel would range from \$7,611 to \$25,369.

Recent estimates of black coral values suggest prices per pound from 2000 to 2020 were \$36.30 per pound on average, suggesting that recent revenue could range anywhere from approximately \$10,000 to \$25,000 annually, depending on the price. The pink and bamboo coral fisheries have been inactive for at least 20 years.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

Based on available information, NMFS has determined that all affected entities are small entities under the SBA definition of a small entity, *i.e.*, they are engaged in the business of fish harvesting, are independently owned or operated, are not dominant in their field of operation, and have gross receipts not in excess of \$11 million.

Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, there would be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

Because the proposed ACLs are the same as those implemented in recent years, and since recent catch has not been constrained by ACLs, this proposed action is not expected to affect participants of these fisheries. Neither would this proposed action disproportionately affect vessels by gear types, areas fished, or home ports. Thus, this action would not result in significant economic impacts to fishery participants. Furthermore, NMFS and the Council are not considering in-season closures for these fisheries because fishery management agencies are not able to track catch relative to the ACLs during the fishing year. Therefore, there is no potential for effects on fishermen from a closure of the deepwater shrimp and precious coral fisheries. A post-season review of the catch data would be required to determine whether any fishery

exceeded its ACL by comparing the ACL to the most recent three-year average catch for which data is available. If an ACL is exceeded, the Council and NMFS would take action to mitigate the overage by reducing the ACL for that fishery in the subsequent year. If an ACL is exceeded more than once in a four-year period, the Council and NMFS would take action to correct the operational issue that caused the ACL overages. NMFS and the Council would evaluate the environmental, social, and economic impacts of future actions, such as changes to future ACLs or AMs, after the required data are available.

Therefore, fishermen in the deepwater shrimp and precious coral fisheries should be able to fish throughout the entire year. The ACLs, as proposed, would not change the gear type, areas fished, effort, or participation of the fisheries during the fishing years under consideration. The proposed action does not duplicate, overlap, or conflict with other Federal rules. For all of these reasons, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 665

Accountability measures, Annual catch limits, Deepwater shrimp, Precious coral, Fisheries, Fishing, Hawaii, Pacific Islands.

Dated: November 30, 2022

Samuel D. Rauch, III,

*Deputy Assistant Administrator for Regulatory Programs
National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665 - FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 665.253, revise paragraph (a)(1) to read as follows:

§ 665.253 Annual Catch Limits (ACL) and Annual Catch Targets (ACT).

(a) *Deepwater shrimp.*

(1) In accordance with § 665.4, the ACLs for each fishing year are as follows:

Table 1 to Paragraph (a) (1)

Fishing year	2022	2023	2024	2025
ACL (lb)	250,773	250,773	250,773	250,773

* * * * *

3. In § 665.269, revise paragraph (c) to read as follows:

§ 665.269 Annual Catch Limits (ACL).

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(c) In accordance with § 665.4, the ACLs for MHI precious coral permit areas for each fishing year are as follows:

Table 1 to Paragraph (c)

Type of coral bed	Area and coral group	2022-23 ACL (lb)	2023-24 ACL (lb)	2024-25 ACL (lb)
Established bed	Auau Channel - Black coral	5,512	5,512	5,512
	Makapuu Bed - Pink and red coral	2,205	2,205	2,205
	Makapuu Bed - Bamboo coral	551	551	551
Conditional Beds	180 Fathom Bank - Pink and red coral	489	489	489
	180 Fathom Bank - Bamboo coral	123	123	123
	Brooks Bank - Pink and red coral	979	979	979
	Brooks Bank - Bamboo coral	245	245	245
	Kaena Point Bed - Pink and red coral	148	148	148
	Kaena Point Bed - Bamboo coral	37	37	37

	Keahole Bed - Pink and red coral	148	148	148
	Keahole Bed - Bamboo coral	37	37	37
Exploratory Area	Hawaii - precious coral	2,205	2,205	2,205

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